

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SHARON ROSECRANS, et al.,)
)
Plaintiffs,)
)
v.) 1:16-cv-00452-JAW
)
AIRAMEDIC, LLC,)
)
Defendant.)

ORDER ON NOTICE OF DAMAGES HEARING

On September 6, 2016, Sharon Rosecrans and Lisa Weeks filed a complaint against Airamedic, LLC (Airamedic), claiming that Airamedic was using their images for commercial purposes, that Airamedic failed to obtain their authority to do so, and that Airamedic failed to respond to their demand that it stop doing so. *Compl.* (ECF No. 1). The Plaintiffs demanded damages “sufficiently large to compensate for damages they have suffered as a result of Defendant’s conduct including, but not limited to, damages for general and non-economic damages, economic damages, pre-judgment and post judgment interest, lost wages, punitive damages, costs of this suit, including reasonable attorney fees and costs, injunctive relief, and such further relief the Court may deem proper.” *Id.* at 3-4.

The Plaintiffs duly served a copy of the Complaint and Summons on Airamedic on September 17, 2016. *Affidavit of Serv.* (ECF No. 4). On October 17, 2016, after Airamedic failed to respond to the lawsuit, the Plaintiffs filed a motion for default judgment against it, and on October 24, 2016, the Plaintiffs filed a motion for entry

of default against Airamedic. *Pls.’ Mot. for Default J.* (ECF No. 5); *Pls.’ Mot. for Entry of Default* (ECF No. 6). On October 24, 2016, the Clerk entered default against Airamedic. *Order Granting Mot. for Entry of Default* (ECF No. 7).

On December 28, 2016, the Court set a damages hearing for January 20, 2017 at the United States District Court in the Margaret Chase Smith Federal Building in Bangor, Maine at 11:00 a.m. *Order Setting Damages Hr’g* at 3 (ECF No. 12). In that Order, the Court issued the following specific directives:

- (1) The Plaintiffs must give immediate notice to Airamedic of the date, time and place of the damages hearing to allow Airamedic to appear at the hearing and defend the damages portion of the case; and
- (2) The Plaintiffs must be prepared to introduce proof at the damages hearing that they have provided notice to Airamedic of the date, time and place of the damages hearing.

Id. at 3-4. The Court specified that if the Plaintiffs “fail to demonstrate that they have given adequate notice of the scheduled damages hearing, their Complaint against Airamedic will be subject to dismissal for lack of prosecution.” *Id.* at 4. The parties appeared with counsel on January 20, 2017 at 11:00 a.m. as directed, but counsel for the Plaintiffs neglected to comply with the Court order and failed to give Airamedic notice of the date, time and place of the damages hearing in accordance with the December 28, 2016 order.

Rather than unduly inconvenience the parties, one of whom traveled from Fort Fairfield, Maine and the other of whom took time off from her doctoral classwork to

attend the scheduled hearing, the Court altered its December 28, 2016 order to require that counsel give post-hearing notice to Airamedic.

The Court hereby AMENDS its December 28, 2016 order as follows:

In place of the pre-hearing notice in the December 28, 2016 order, the Court hereby ORDERS that counsel for the Plaintiffs must send notice to Airamedic by certified mail, return receipt requested, that the Court held a damages hearing on January 20, 2017 at 11:00 a.m. against Airamedic and if Airamedic wishes to appear and in any way contest the Plaintiffs' claims for damages, Airamedic must notify the Court and Plaintiffs' counsel within fourteen days of the date of receipt of the notice that Airamedic wishes to do so. Counsel for the Plaintiffs must file a copy of the notice to Airamedic together with both a copy of the certified mail receipt and a copy of the return receipt with the Court. If Airamedic fails to respond to the post-hearing notice within fourteen days of its receipt of the notice, the Court will issue a final judgment against Airamedic without further notice to Airamedic.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 20th day of January, 2017